

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA *

vs. * CRIMINAL NO. MJG-11-0652

EFPLOIA SHIPPING CO., S.A. *

Defendant *

* * * *

UNITED STATES OF AMERICA *

vs. * CRIMINAL NO. MJG-11-0671

AQUAROSA SHIPPING A/S *

Defendant *

* * * * *

MEMORANDUM AND ORDER RE: FUND PAYMENT

In these related cases, the Government has sought an Order granting a Whistleblower Award to Salvador Lopez of 50% of the fines (totaling \$1,850,000.00) assessed against the Defendants. The Government's Motion was unopposed by Defendant Aquarosa Shipping A/S but opposed by Defendant Efploia Shipping Co., S.A.

By Order of April 16, 2012 [Document 16 in MJG-11-0671], the Court granted the Government's unopposed Motion to award Salvador Lopez (as a Whistleblower Award) the sum of \$462,500.00 to be paid from fine payments made by Aquarosa Shipping A/S. The Court reserved decision regarding any increase in the Whistleblower Award to be paid from fine payments made by Efploia Shipping Co., S.A.

Pursuant to Order of April 16, 2012 [Document 16 in MJG-11-0671], the Order Re: Fund Payments [Document 17 in MJG-11-0671], and the Court's Further Orders Re: Fund Payments [Documents 21, 24, 28, 31, 35, 38, 42, and 49 in MJG-11-0671], the Court ordered the payment to Salvador Lopez of one half of the funds received from Aquarosa Shipping A/S prior to the final payment made in April 2014. Defendant Aquarosa Shipping A/S has now made the final payment due on its obligation (\$252,297.96 - which includes the balance of the fine with interest), one half of which has been paid to the United States. The balance of that payment (\$126,148.98) is held by the Clerk.

Counsel for Salvador Lopez asserts a right to 20% of any Whistleblower Award in the instant cases made to Salvador Lopez pursuant to a contingent fee agreement. The Government objects to the application of the contingent fee agreement to the Whistleblower Award. The matter has been briefed, the Court has heard argument, and the matter is under advisement.

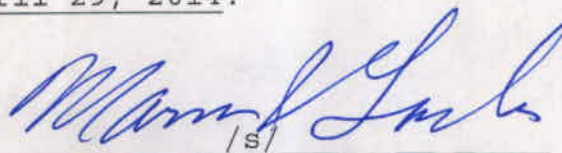
Counsel for Salvador Lopez has asserted entitlement to receive 20% of the total Whistleblower Award to Salvador Lopez, and the total award will not be less than \$462,500.00 - one half of the fine payments made by Aquarosa Shipping A/S. Hence, as matters now stand, counsel for Salvador Lopez asserts a claim for at least \$92,500.00. The Court finds it appropriate to have the Clerk retain this amount pending resolution of issues relating to the contingent fee agreement.

Should the contingent fee agreement be applied by the Court, counsel would receive the retained funds.¹ If not, counsel may nonetheless be entitled to reimbursement of certain out-of-pocket expenses incurred on behalf of Salvador Lopez.²

Accordingly:

1. The Clerk of Court expeditiously shall transfer the amount of \$33,648.98 by wire or check to the client trust fund of Mr. Lopez's counsel of record, J. Stephen Simms of Simms Showers LLP.
2. Within five (5) business days of receiving funds from the Clerk of Court in this matter, J. Stephen Simms shall transfer such funds directly to a bank account in the Philippines controlled by Mr. Lopez.
3. Except as may be provided by further order, neither Mr. Simms nor members of his law firm shall, except as provided herein, directly or indirectly solicit or accept any commission, costs, expenses, or fees of any kind in connection with this transfer.
4. Within one (1) business day of the transfer of funds to Mr. Lopez, Mr. Simms shall file with this Court a notice of compliance with this Order, stating the date upon which Mr. Lopez's counsel has made the transfer to Mr. Lopez.

SO ORDERED, on Tuesday, April 29, 2014.

A handwritten signature in blue ink, appearing to read "Marvin J. Garbis", with a horizontal line underneath it.

Marvin J. Garbis
United States District Judge

¹ In addition to 20% of any increase in the total Whistleblower Award.

² The contingent fee agreement, if applied, would require counsel to bear all expenses.